

Involving people with lived experience in criminal justice reform

A focus on fragile and conflict-affected settings¹

Introduction

There is increasing recognition of the value that people with lived experience (PWLE) of criminal justice systems bring to reform efforts. Whether as a suspect or a defendant in a criminal case, or someone deprived of their liberty or under a community-based sentence, people with lived experience provide insights and expertise that other stakeholders do not have. They are uniquely placed to develop and advocate for more effective or alternative approaches.

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This ten-point plan draws on Penal Reform International's (PRI) work with people with lived experience, including in Armenia, Indonesia and Uganda, and is based on the active involvement of people with lived experience. It has been enriched by people with lived experiences across these countries. It has also drawn on the expertise and valuable resources and studies from other organisations working with people affected directly by justice systems.

PRI is committed to promoting practical knowledge and lived experience including through its Experts by Experience Group. Its Charter is an evolving document reflecting our aim to improve and learn. Likewise, our Global Group is being developed in a gradual and participatory manner.²

It is important that work with people with lived experience includes those living in fragile and conflict affected settings (FCAS). This allows expertise on and understanding how conflict and fragility affect criminal justice systems, and how best to protect human rights, including to rebuild systems following conflict and disaster.

10-point plan:

01

Meaningful engagement

Meaningful engagement of people with lived experience goes beyond having a seat at the table, it is about being deeply engaged in the development, implementation and monitoring of policy reforms.

The purpose of involving people with lived experience is usually multi-faceted. It may be to drive or influence changes in policy or practice, inform the direction of research or to provide feedback on how particular services or programmes might be improved.

Involvement is not contingent on telling personal stories and people's engagement must be systematic and never tokenistic (i.e. it must not be to 'tick a box'). Meaningful engagement entails valuing and drawing on PWLE's expertise gained as someone with direct contact of criminal justice system with respect and dignity to help shape improvements in criminal justice systems that impact all stakeholders.

Participation is meaningful only if PWLE who are engaged:

- understand its value;
- comprehend the significance of their contributions;
- are aware of how their input will be used;
- recognise the benefits of meaningful engagement, which further entails opportunities for reflection and feedback.

Preparing PWLE for meaningful engagement

In Armenia, PRI organised a series of meetings over a half-year period to prepare seven people with lived experience to engage with criminal justice stakeholders involved in reform efforts. Inception meetings were held with each person individually, establishing trust among PRI and the PWLE participants of this initiative.

This was also crucial to gaining a detailed understanding of needs and expectations, and the observations and recommendations they would like to present. Ongoing communication and a preparation meeting with all PWLE participants gave further knowledge and skills sought by participants, just prior to the workshop with the country's public authorities.

Finally, a follow-up meeting provided a space for learning, not only on the initiative itself but PRI's approach. This initiative was generously supported by the Knowledge Management Fund.

In FCAS, explaining the value of participation is particularly important where other life priorities are likely to take priority.

02

Equity

Lived experience is a form of expertise and is equal to other sources of reliable information.

People with lived experience should be involved on an equal footing as other stakeholders and people in positions of authority should respect this. In different forums, authorities or other stakeholders should learn not to take centre stage and give space and attention to other viewpoints. Engagement with those with lived experience must be recognised as a partnership, and policy and practice should reiterate that their time is as valuable as that of other participants.

PWLE lead training sessions of justice professionals

The organisation, Exchanging Perspectives, run the 'Youthlab' programme: where young people with lived experiences of the criminal justice system train justice professionals. Given their success of this programme, the organisation now assists others in implementing their own 'Youthlab', providing toolkits and advice on how to engage with stakeholders and prepare the young people who lead training sessions.³

Ensuring PWLE's participation may involve adapting methods of communication, ensuring realistic timeframes, and providing compensation and other kinds of support in advance, such as childcare and transportation costs. In FCAS, people with lived experience may have less access to financial means, and travel may be more challenging than in other contexts, and this should be borne in mind when planning what support is needed. People with lived experience, similar to anyone else, may already have the skills they need to participate. If not, they should be provided with suitable training based on self-identified needs. It is equally important that people without lived experience, including those working for international

organisations and detention monitoring bodies, are fully aware of the value of the expertise and perspectives of those with lived experience.

Organisations working with PWLE should be trained and equipped on various aspects of involving people with lived experience in order to develop their own knowledge and understanding of lived experience. This is also important to ensure that engagement of people with lived experience does not further stigmatise and is respectful, dignified, and equitable. Ensuring equity includes physical equity as well.

For example, being mindful about avoiding venue and seating arrangements that isolate or alienate those with lived experience from the rest of the participants might be essential to ensure the feeling of equity.

03

Clarity and transparency

All initiatives that involve people with lived experience or are initiated by them, must begin with a common understanding of the purpose and the importance and value of this.

For example, the experiences and knowledge should and can be provided to achieve the objectives of the engagement must be clarified. This includes development of a shared agreement of participation requirements, processes involved and the level of

influence on outcomes as well as any limitations. Managing expectations of success is also important. All participants should be aware of the slow pace of reform in criminal justice systems, which is even more pronounced in FACS.

Criteria for involvement, timeframes and the expectations of both organisers and participants must be clearly established from the outset. The reason for including certain individuals or groups should also always be clear and transparent. If needed, a formal contract or agreement may ensure greater clarity and manage expectations for both decision-makers and those with lived experience.

04

Multi-layered involvement

There is no 'one size fits all' model on how people with lived experience can be involved in different initiatives for criminal justice reform. This depends on the aims and the needs and wishes of the individual, or group of people, as well as its purpose.

Involvement may take the form of ensuring that those with lived experience are informed about decisions that impact them or asking for their feedback, through deeper involvement in planning and implementation, collaboration and decision-making and ultimately them taking advisory and/or leadership roles.

People with lived experience may have experienced violence prior to, during, or after their contact with the criminal justice system, and this may have been sexual

and gender-based violence or torture or ill-treatment. In FCAS, violence experienced may have been related to a conflict. A trauma-based, gender-sensitive approach is, therefore, particularly important. PWLE may also be involved in complex and sensitive initiatives like rehabilitation for torture survivors. Experiences and consequences of such violence should be taken into account in any initiative involving PWLE. (Also see Point 10).

All levels of involvement with PWLE should be promoted, whether it is over a short or long period, or involving a one-off initiative. Each level of involvement is valuable towards ensuring that the experiences and needs of PWLE are centred and their voices are heard. People with lived experience must not be defined by their criminal justice experience including their imprisonment (whether current or after release) and stakeholders should recognise they may have broader contributions based on a range of experiences and expertise outside of this.

05

Diversity and inclusivity

People who come into conflict with the law are not a homogenous group. A true representation of priority needs depends on diverse representation.

Depending on the subject matter, some initiatives will require input from certain groups with lived experience in the criminal justice setting and individuals with appropriate expertise should be selected, but within these groups there will be diverse perspectives.

Meaningful engagement means working to reduce barriers to participation including internet and phone access and costs, digital literacy, language, accessibility, or cultural considerations.

Inclusivity means recognising different communication needs and preferences and including considerations of neurodiversity. It also means involving a group

with lived experience which reflect the composition of the prison population, including, for example a representative gender balance, different ethnic groups, LGBTQI+ persons, younger and older people with lived experience, and those with mental health issues, etc. In FCAS, this might also include ensuring greater protections for those who have experienced torture, sexual and gender-based violence, or face reprisals and practical assistance for those living in areas of intense conflict or areas affected by disasters, seeking to avoid re-traumatisation.

People should not be barred from participation based on the nature or severity of the offence they were charged with or convicted of, or their legal status. The opinions of everyone are valued and alternative viewpoints must be respected. Some groups may, however, need tailored approaches based on their individual needs and safeguarding requirements to be able to share their views.

06

Addressing stigma and discrimination

Involving people with lived experience must address reluctance or refusal from some stakeholders to give people with lived experience the right to be heard.

This involves taking measures to reduce stigma and discrimination. Such initiatives can help those who are working with people with lived experience to understand the reality of the experiences and challenges that they face on a regular basis. Despite their close work relationship and human rights trainings, some authorities may have a stigmatising approach towards people with lived experience and if gathering these two groups together is envisaged, a prior and separate meeting with the public officials should be realised.

Language matters

The National Network of Incarcerated and Formerly Incarcerated Women and Girls, an Australian organisation, has issued a specific guide on appropriate language due to the consistent use of dehumanising language used to describe PWLE of criminal justice. Terms such as 'inmate' and 'offender' must be avoided.⁴

A respectful and rights-compliant terminology should be set, that is non-discriminatory towards people with lived experience and other marginalised groups in society, such as sex workers or people who use drugs. Efforts to combat stigma should include the use of language that is not stigmatising, including the use of dehumanising labels.

07

Safety and wellbeing

People with lived experience must be able to participate in reform efforts in a safe and trauma-informed environment.

This recognises that it may be particularly hard for those who have experienced human rights violations to come forward to participate. This includes physical safety – guarding against risks from others, including potential retaliation – as well as feeling safe to express views and experiences without the risk of re-traumatisation or stigmatisation.

The ‘do no harm’ principle should always guide decision-making, including with practical arrangements such as the location of meetings or pre-recording the views and opinions. In FCAS, the risks to people need specific and careful consideration as they are generally

affected by long-lasting tensions and polarisations that can easily be triggered. Some guiding principles may need to be set up ahead of meetings to exclude certain triggering topics and ensuring respect for different viewpoints and personal safety. It may also be necessary to be considerate of timings in these settings. Rescheduling may sometimes be necessary and in-built flexibility is important.

Safety and wellbeing considerations will be different for those currently in prison and those who have been released or are in other parts of the justice system. The creation of a safe space involves input from people with lived experience on what they need to feel safe to participate in a meaningful manner. For women, this may mean a ‘women’s only’ space, for instance, and similarly for young people. People should be offered appropriate support before, during and after their participation, including appropriate handling of any adverse consequences. Options to have support networks (guardians, friends or other) accompany PWLE in any meeting or event should be considered.

08

Goal-oriented

The involvement of people with lived experience should be active. It is equally important that they can achieve their own personal goals and progress in a way that is meaningful to them and may benefit their personal and professional growth.

This could require having more detailed discussions about plans and ambitions of those involved. In addition, adopting participatory methodologies can enable people with lived experience to be at the centre of the design and play a role in deciding how and to what extent their involvement in the project or initiative would affect their future path.⁵

Those involved in a project or initiative should also be fully involved in or informed about outcomes and next steps. Evaluation of work done, including the impact of involving people with lived experience, is essential.

A charter for PRI’s Experts by Experience Group

The PRI’s Charter for its Experts by Experience group contains background information and safeguarding ground rules for the group. The Charter sets out details on the functioning of the group to ensure that all members agree and express mutual commitment to the Charter whilst also managing expectations of the role of the Global Group. It was co-created with the group, and signed by PRI and each member.⁶

09

Informed consent

People with lived experience should be made fully aware that their participation is voluntary, and they should never feel obliged or expected to take part out of a feeling of duty.

Informed consent must be obtained before involvement commences and there is a clear Written and verbal information on the content, context, those involved, determined or envisaged future steps and any other

important considerations should be given. To assist the process, involving local or community-based NGOs can be helpful.

A gender-sensitive, trauma-informed approach should be taken, including by for example, ensuring that any power imbalances or gender considerations are recognised and addressed as necessary. Specialist organisations can be brought into assist if required.

The options of anonymity and confidentiality should be offered where appropriate. Participants should be invited to discuss the usage and dissemination of photos, sign-in sheets, etc, and agreement is advised before any event or meeting.

10

Securing involvement of PWLE (and other stakeholders)

Involving people with lived experience in reform efforts can bring unique complexities in terms of personal safety, travel and other logistics, as well as their willingness and ability to participate.

For people in FCAS, the complexities may be exacerbated, for example, there may be more distrust and reluctance to participate. Furthermore, civil society might be less active in FCAS which can mean it is

more difficult to reach to those with lived experience and involve them in reform efforts. Securing their involvement may require the involvement of national and international monitoring bodies, including National Preventive Mechanisms, international organisations or trusted local NGOs working on different fields, such as humanitarian support, torture rehabilitation, women and LGBTI+ rights organisations, etc.

Similarly, ongoing violence and weak institutions may weaken the autonomy of low-ranking public stakeholders. Including senior-level national authorities, international NGOs and other actors may support establishing trust and increasing the interest of public stakeholder towards engaging with people with lived experience in a more meaningful manner.

Endnotes

1. Fragile and conflict-affected settings (FCAS) settings is a broad term describing a range of situations including humanitarian crises, protracted emergencies and armed conflicts. The World Bank issues a list of fragile and conflict-affected situations annually, using the following categories: *Countries with high levels of institutional and social fragility, identified based on indicators that measure the quality of policy and institutions, and manifestations of fragility; *Countries affected by violent conflict, identified based on a threshold number of conflict-related deaths relative to the population. Please see: www.worldbank.org/en/topic/fragilityconflictviolence/brief/harmonized-list-of-fragile-situations.
2. PRI, Global Group of Experts by Experience and Charter, www.penalreform.org/about-us/people/global-group-of-experts-by-experience.
3. About: Young Perspectives Toolkit, exchangingperspectives.org/about.
4. International Network of Incarcerated and Formerly Incarcerated Women and Girls, Language Guide, <https://thenationalnetwork.com.au/abolition-resources>.
5. For an example, please see: Prof Hannah Smithson et al., Participatory Youth Practice, Supporting children's meaningful participation in the youth justice system, www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2021/08/Academic-Insight-%E2%80%93-93-Supporting-childrens-meaningful-participation-in-the-youth-justice-system.pdf.
6. *Op cit* 2.

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www.penalreform.org

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FAIR AND EFFECTIVE CRIMINAL JUSTICE

Penal Reform International Headquarters

The Green House
244-254 Cambridge Heath Road
London E2 9DA
United Kingdom

The Hague Humanity Hub
Fluwelen Burgwal 58
2511 CJ Den Haag
Netherlands

+44 (0) 203 559 6752
info@penalreform.org

✉ @PenalReformInt
in @Penal Reform International
ig @PenalReformInt
yt @PenalReformInternational

www.penalreform.org

Penal Reform International in Central Asia

Syganak str. 29
Astana
Kazakhstan

pricentralasia@penalreform.org

Penal Reform International in Middle East and North Africa

22 Amro Bin Dinar
Amman
Jordan

priamman@penalreform.org

Penal Reform International in South Caucasus

prisouthcaucasus@penalreform.org

Penal Reform International in Sub-Saharan Africa

Plot 4999
Kironde Road
Muyenga
Kampala
P.O. Box 11455
Uganda

africa@penalreform.org

www.penalreform.org